

M-8532 US
09/393,899REMARKS

Applicants have amended claim 31 to clarify that the mastered content is encrypted as discussed on page 9, line 3. In that regard, Applicants point out that "mastered content" has a well known meaning. For example, DVDs have mastered content that is pressed into the disk during manufacture. Applicants have provided a disk having such mastered content that also includes a writeable area.

Consider how any mastered content is placed onto a ROM optical disk, whether that mastered content is music for a CD or a movie for a DVD. Regardless of what that content represents, the content is first scribed onto a master disk. That master disk is used to stamp a disk substrate, which is typically polycarbonate. Having been stamped with the mastered content features, the substrate is then covered with a reflective layer (often aluminum) and finished with a protective polycarbonate coversheet that covers the reflective layer. That is how read-only DVDs and audio CDs are produced (various complications are introduced for dual layer disks, but the basic process is the same).

But note the difference should a writeable area be desired on the disk – the writeable layer requires an information layer that can absorb laser light so that bits may be effected into the information layer. But recall that the mastered content area requires a reflective layer – the ROM and RAM areas have conflicting requirements. One requires sufficient reflectivity and the other requires sufficient absorptivity. Thus, the manufacture of an optical disk having a writeable area and a mastered content area was a formidable task for the prior art. But along comes Dataplay (now doing business as DPHI) to recognize an information layer having just the right combination of reflectivity and absorptivity such that an optical disk substrate may be stamped with the features for the mastered content and the features (grooves/lands) for the

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writeable area and then covered with the advantageous information layer.

Thus, for the first time, commercially viable optical disks have been produced that contain both an encrypted mastered area and a writeable area. These disks may be seen on the website: www.dataplay.com. By producing a mastered content/writable area optical disk, Applicants were also able to advance the state of the art in digital rights management (DRM) in that conventional DRM is host-based. For example, consider the Subler reference – as seen in Col. 4, lines 39 through 55, the CD-ROM contains code which is loaded onto a user's workstation (the host) and which "unlocks" the encrypted mastered content. This is standard fare in the DRM field. However, the problem with host-based DRM schemes is that they violate a user's expectations in that once a user pays for content, that user expects free use of the content. But in a host-based DRM scheme, the user is only unlocked at the host. If the user then takes the Subler disk to another player, he/she cannot access the content, despite paying for it. Applicants have solved this dilemma by providing a media-based DRM scheme such that once the media is unlocked by having the "first access code" code written to the writeable area (as recited in claim 31), the user may go from player to player and enjoy the content just as one would do for a conventional audio CD or movie DVD. Applicants note that the provision of the advantageous DRM scheme recited in claim 31 required tremendous effort and over 200 million dollars of development cost. Perhaps it seems obvious in hindsight. But it is not obvious over the Subler reference.

In sum, the Subler reference does not teach or suggest the act of "writing the second access code onto the optical disk, whereby the optical disk reader may decrypt the second portion of the encrypted mastered content stored on the optical disk by using the second access code." The Itami reference (USP 6,278,984) adds nothing further. To use an Itami disk, a user must first purchase a write-once optical disk having a vendor ID written to a

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system area. A control CPU then reads the vendor ID and compares it to the vendor ID for software to be written to the disk. As seen in Figure 2, the software/vendor ID may simply be downloaded using satellite dish 30. If the vendor IDs match, the software is written to the disk – see, e.g., the Abstract. It may be immediately seen that Itami thus neither teaches nor suggests the act of “writing the second access code onto the optical disk, whereby the optical disk reader may decrypt the second portion of the encrypted mastered content stored on the optical disk by using the second access code.”

The Evans reference adds nothing further with regard to the teaching or suggestion of the act of “writing the second access code onto the optical disk, whereby the optical disk reader may decrypt the second portion of the encrypted mastered content stored on the optical disk by using the second access code.”

That the Tognazzini reference discloses a hybrid disk with a (magnetic) writeable area is irrelevant – it does nothing to provide the missing teaching or suggestion for the act of “writing the second access code onto the optical disk, whereby the optical disk reader may decrypt the second portion of the encrypted mastered content stored on the optical disk by using the second access code.” The Evans reference (US Pub. No. 2003/0126033) is just as irrelevant.

Accordingly, claim 31 and its dependent claims are allowable over the cited prior art.

Claims 33, 34, and 35 were amended in view of the amendment to claim 31. No new matter is added.

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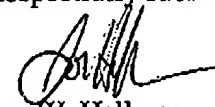
For the foregoing reasons, Applicants respectfully submit that the pending claims are in condition for allowance.

If there are any questions regarding any aspect of the application, please call the undersigned at 949-752-7040.

I hereby certify that this correspondence is being facsimile transmitted to (703) 872-9306: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 17, 2006.


Sandra L. Carr January 17, 2006
Date of Signature

Respectfully submitted,


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